

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:15-cv-00284-FDW

BRIAN K. LEWIS;)
JAMIE R. SPAKE;)
)
Plaintiffs,)
)
v.)
)
NC DEPARTMENT OF)
PUBLIC SAFETY/DIVISION)
OF PRISONS, et al.,)
)
Defendants.)
_____)

ORDER

THIS MATTER is before the Court upon consideration of Plaintiffs' pro se amended complaint which is filed pursuant to 42 U.S.C. 1983. (Doc. No. 12).

Plaintiffs are prisoners of the State of North Carolina who allege they have Hepatitis C and they contend that this disease is not being adequately treated, if at all, by one or more of the defendants. (Id. ¶ 1). On April 8, 2016, the Clerk entered an Order requiring the Plaintiffs to demonstrate that they had each exhausted their administrative remedies as required by 42 U.S.C. § 1997e(a).¹ (Id., Doc. Nos. 19, 20). Plaintiff Spake filed a response which tended to show that he has exhausted his available administrative remedies by filing his Step-Three response. (Id., Doc. No. 16). Plaintiff Lewis has filed a sworn statement that he has exhausted his administrative remedies and he avers that he attached copies of the grievances demonstrating completion;

¹ In North Carolina, state prisoners must complete a three-step administrative remedy procedure (the "ARP") in order to properly exhaust their administrative remedies. See N.C. Gen. Stat. §§ 148-118.1 to 148-118.9 (Article 11A: Corrections Administrative Remedy Procedure); Moore v. Bennette, 517 F.3d 717, 721 (4th Cir. 2008) (discussing the ARP).

however Plaintiff Lewis has only filed his initial grievance and has not filed a response from any of the defendants. (Id., Doc. No. 21).

Because Plaintiffs seek to present their claims together in one civil action, the Court finds that before this case may proceed, Plaintiff Lewis should file the Step-Three response to the grievance that he filed in Doc. No. 21, or file a sworn statement explaining why he is unable to fully exhaust his administrative remedies.

IT IS, THEREFORE, ORDERED that Plaintiff Lewis shall file his Step-Three response to the Grievance filed in Doc. No. 21, or file a sworn statement explaining why he is unable to fully exhaust his administrative remedies. Plaintiff Lewis is hereby notified that failure to comply within fourteen (14) days from entry of this Order may result in his dismissal from this civil action and without further notice.

SO ORDERED.

Signed: July 21, 2016

A handwritten signature in black ink, appearing to read "Frank D. Whitney", is written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

